

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

FILED
IN CLERK'S OFFICE
US DISTRICT COURT E.D.N.Y.

★ DEC 11 2019 ★

RD 12/11/19
JT

-----X
BENNY CANELA, *on behalf of himself and others*
similarly situated,

BROOKLYN OFFICE

Plaintiffs,

v.

BOOTH MEMORAL AVE DRUGS INC., *et al.*,

Defendants.
-----X

DECISION & ORDER

15-CV-7419 (WFK)

WILLIAM F. KUNTZ II, United States District Judge:

On June 26, 2019, the Court held a hearing in the above-captioned action following the entry of default against Defendants by the Clerk of Court. The Court ordered Plaintiff's counsel to submit a proposed order for default judgment along with the Clerk of Court's certificate of default for the Court to review. On August 14, 2019, Magistrate Judge Robert M. Levy granted Plaintiff's request to substitute his attorney. Neither Plaintiff nor his counsel has filed a proposed order for default judgment as instructed by the Court on June 26, 2019.

A district court has the inherent power to dismiss a case with prejudice for lack of prosecution pursuant to Rule 41(b) of the Federal Rules of Civil Procedure. *See Link v. Wabash R.R. Co.*, 360 U.S. 626, 629 (1962). By failing to comply with this Court's order directing him to file a motion for default judgment, Plaintiff has failed to pursue their claim. Therefore, the Court concludes Plaintiffs' noncompliance warrants dismissal, and that such dismissal be without prejudice.

For the foregoing reasons, the above-captioned action is hereby DISMISSED without prejudice for failure to prosecute pursuant to Rule 41(b). The Clerk of Court is respectfully instructed to close this case.

SO ORDERED.

s/WFK


HON. WILLIAM F. KENTZ, II
UNITED STATES DISTRICT JUDGE

Dated: December 10, 2019
Brooklyn, New York